

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

ROLAND RAMOS, # 894721

v.

NATHANIEL QUARTERMAN,
DIRECTOR OF TDCJ-CID

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CIVIL ACTION NO. G-03-975

PARTIAL ORDER OF DISMISSAL

Before the Court is the Report and Recommendation of the United States Magistrate Judge that was entered on July 14, 2006. Petitioner has filed his Objections to the Report and Recommendation in a timely manner. Respondent has filed no objections.


In his Objections, Petitioner asserts that the Magistrate Judge failed to address his Motion to Strike Respondent' s Answer for failing to comply with Rule 5(a) of the Federal Rule of Civil Procedure and Rule 5. Pl.' s Obj. at 3. The Court observes that Respondent filed its Answer on June 16, 2004, and, on July 1, 2004, Petitioner filed a lengthy 16-page " Traverse to Respondent' s Answer" in which he failed to raise this issue. Instead, on March 24, 2006, nearly two years after Respondent filed its Answer, Petitioner filed a Motion to Strike the Respondent' s Answer. Petitioner' s Motion to Strike is denied as it is untimely. Fed. R. Civ. Proc. 12(f).

Having given this matter *de novo* review under 28 U.S.C. § 636(b)(1)(C), this Court finds that the Report and Recommendation is correct and it is, therefore, **ACCEPTED** by this Court in its entirety and incorporated by reference herein.

Accordingly, it is **ORDERED** that Petitioner' s “ Motion for Leave of Court to Take the Oral Deposition of Kristine Coronado Ramos” (Instrument No. 10) is **DENIED** and Petitioner' s Motion to Strike (Instrument No. 11) is **DENIED**.

It is further **ORDERED** that the Petition for a Writ of Habeas Corpus of Roland Ramos (Instrument No. 1) is **DISMISSED** on all grounds except ground number 2, as set forth in the Magistrate Judge' s Report and Recommendation, and this matter shall be returned to the Magistrate Judge for further proceedings.

DONE at Galveston, Texas this 31st day of August, 2006.



Samuel B. Kent
United States District Judge